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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/797,640

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D. Ryan Breese

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EXAMINER

WOLLSCHLAGER, JEFFREY MICHAEL

ART UNIT

PAPER NUMBER

1732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/797,640

Applicant(s)

BREESE, D. RYAN

Examiner

Jeff Wollschlager

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's amendment to the claims filed November 28, 2006 has been entered. Claim 1 is currently amended. Claim 5 is canceled. Claim 15 is new. Claims 1-4 and 6-15 are pending and under examination.

Claim Objections

Claim 14 is objected to because of the following informalities: It depends from claim 5, which has been canceled. For the purposes of examination, claims 13 and 14 are understood to have the same scope. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Farley et al. (WO 01/98409; published December 27, 2001).

Regarding claims 1 and 13-15, Farley et al. teach a method of uniaxially orienting a multilayer film (page 31, lines 7-22; page 47, Example 2 and Table 2) comprising at least one layer of LLDPE/VDPE and one layer of HDPE (page 31, lines 7-page 33, line 9) wherein based upon the instant disclosure it is the examiner's position that the draw-down ratio applied by Farley et al. (page 34, line 29-page 35, line 8) is effective to cause

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the film to delaminate and to give the film a dart drop strength that increases with increasing draw-down ratio.

More specifically, in paragraph [0027] of the instant disclosure, published as U.S. Patent Application Publication 2005/0200046, the disclosed preferred draw down ratio is greater than 6:1 and the most preferred draw down ratio is disclosed as being greater than 10:1. It is noted in the same paragraph that preferably, the multilayer film starts to delaminate and form a multi-wall film. Additionally, Table 1 suggests that the dart drop strength begins to increase when the draw down ratio is between 5:1 and 6:1.

Turning to Farley et al., the disclosed draw down ratio is typically about 21:1 (page 34, line 29 – page 35, line 8). This draw down ratio is within the disclosed range defined as most preferable by the instant disclosure. As such, it is the examiner's position that based upon the instant disclosure, Farley et al. necessarily achieve the same claimed effects and physical properties. Said differently, Farley et al. employ the same claimed materials with the same claimed process steps and conditions and as such, Farley et al. achieve the same claimed results.

As to claims 2-4, Farley et al. disclose the claimed densities (page 2, line 6 – page 3, line 24; page 30, line 9 – page 31, line 7).

As to claim 6, Farley et al. disclose a draw down ratio within the most preferred range. As such, it is the examiner's position that the limitation of the claim is met as discussed in the rejection of claims 1 and 15 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farley et al. (WO 01/98409; published December 27, 2001).

As to claims 7-12, Farley et al. employ the claimed polyethylenes and disclose a presumed molecular number of 15,000 and further disclose a broad range of applicable melt indexes suitable for employment (page 17, lines 1-20). Farley et al. do not expressly disclose the broad ranges of applicable molecular weights. However, as previously presented, polyethylenes with the properties as claimed are readily available and routinely employed in film grade applications and would have been utilized by the ordinarily skilled artisan at the time of the claimed invention for the purpose of being able to produce a film without necessarily needing to produce the raw material polymer, as is routinely practiced in the art. Further, the examiner notes that molecular weight and melt index are highly correlated properties.

Response to Arguments

Applicant's arguments filed November 28, 2006 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

All claims are rejected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Tate et al. (US 2003/0040584) disclose a polyethylene film produced with an increased draw ratio.

Kimura et al. (U.S. 6,127,293) disclose a uniaxially stretched laminate comprising the claimed materials and further disclose broad ranges of molecular weight distributions suitable for their invention.

U.S. Patents 6,147,167; 5,962,598; and 6,878,454 disclose polyethylene films employing a variety of different molecular weight and molecular number containing polyethylenes.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Wollschlager whose telephone number is 571-272-8937. The examiner can normally be reached on Monday - Thursday 7:00 - 4:45, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JW

Jeff Wollschlager
Examiner
Art Unit 1732
February 1, 2007


CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER
2/2/07